

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

ALFRED PERRY,)	
)	
Petitioner,)	
)	
v.)	Case No. CV412-040
)	
AL ST. LAWRENCE,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

On February 15, 2011, the Court ordered 28 U.S.C. § 2241 petitioner Alfred Perry to submit an amended § 2241 petition showing that he had exhausted his available state remedies. (Doc. 3.) In his amended petition, he states that he has done so by presenting his claims to the Georgia Supreme Court. (Doc. 4 at 4.) The actual correspondence from the Supreme Court shows otherwise, however. (*Id.* at 5.) It did not consider his petition and returned his papers because he had failed to first seek habeas review in the trial court. (*Id.*) This is a bit confusing, since Perry in fact did file a habeas corpus petition before the state trial court,

which was denied on February 22, 2012. (Doc. 6 at 7.) Nonetheless, something has clearly gone wrong during the appellate process, but Perry is still within the 30 day period in which to file a notice of appeal. O.C.G.A. § 5-6-38. (*Id.*)

For the purposes of this Report and Recommendation, the Court **GRANTS** Perry's motion to proceed in forma pauperis (doc. 2), but his case should be **DISMISSED** without prejudice so that he may exhaust his state remedies by raising these claims properly before Georgia's Supreme Court. Once he has done so, he may submit a new § 2241 petition.

SO REPORTED AND RECOMMENDED this 23rd day of March, 2012.


UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA